

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Request for Review of a Decision of the)	CC Docket No. 02-6
Wireline Competition Bureau by)	
)	
Richmond Public Library,)	WCB Order DA 15-387
Richmond, VA)	
)	

PETITION FOR RECONSIDERATION

In accordance with CFR 47, Section 1.106(b)(2)(i),(ii), 1.106(c)(2), and 1.106(d)(2) Richmond Public Library (Richmond) requests reconsideration of a decision by the Wireline Competition Bureau (Bureau), DA 15-387, Released March 27, 2015. Richmond relies on facts or circumstances which have changed since the last opportunity to present such matters to the Commission and that consideration of the arguments relied on are in the public interest, particularly for all libraries participating in the Schools and Libraries Program.

Richmond Public Library
Billed Entity Number: 126511
FCC Registration Number: 0013046917
Form 471 Number: 940708
Funding Request Number: 2595958, 2595964, 2599710

Background

Richmond Public Library submitted an E-Rate Form 471 during the 2014 filing window requesting discounts on eligible services. Richmond used NSLP data published on the Virginia State Department of Education's (DOE) Web site, which the Schools and Libraries Division (Administrator) uses to verify discount calculations for public schools and libraries. Subsequent

review of Virginia applications revealed that the Richmond Public Schools (School) E-Rate application utilized NSLP data not consistent with the DOE public report. The School's application indicated an NSLP eligibility percentage over 75 percent, entitling Richmond to receive a 90 percent E-Rate discount. The DOE report showed an NSLP eligibility percentage of 74.25, qualifying the library for an 80 percent discount. Upon discovery, Richmond contacted the school division requesting source documentation verifying the higher NSLP data. The School employee responsible for entering data on the School's application responded via email that the School used the School's December NSLP report rather than the October report utilized by DOE. A copy of the source documentation was requested but the employee refused to share the document. Based on the School's publically available 2014 E-Rate application, Richmond submitted a RAL correction requesting a 90 percent discount for the library. The Administrator did not acknowledge the RAL correction and issued a funding commitment letter with an 80 percent discount for Richmond Library. Richmond timely appealed the Commitment Decision Letter to the Administrator. The Administrator denied the appeal on September 12, 2014 concluding that Richmond had not demonstrated in the appeal the discount percentage was incorrect. Richmond immediately filed an appeal with the Commission requesting a 90 percent discount for the library.

On March 27, 2015 the Wireline Competition Bureau issued a decision denying Richmond's Request for Review. As precedent for the decision, the Bureau cited the Enterprise City Schools decision, CC Docket 02-6.

Discussion

In accordance with Section 1.106(b)(2)(i), Richmond provides new facts unavailable when filing the appeal with the Commission. Specifically, Richmond did not receive the December 2013 SNP023 School Lunch report used to prepare the School's 2014 E-Rate application until February 5, 2015. The report is attached here. During review and initial appeals, Richmond relied on the School's E-Rate application as the basis for the 90 percent discount request. The School's E-Rate applications were approved for funding in June and July of 2014. The applications were approved at the higher discount rate. Because the School's application used NSLP numbers that differed from the DOE report, the Administrator is required to request verification from the applicant. Richmond assumes the Administrator had access to the December 2013 SNP023 report when reviewing the library appeal.

This decision was issued under the Bureau's "Streamlined Resolution of Requests related to Actions by the Universal Service Administrative Company" where numerous decisions are issued in a single Order with decision precedent cited as footnotes associated with groups of applicants. In accordance with CFR 47, Section 1.106(d)(2), Richmond believes the precedent cited in this case is erroneous. As precedent for denying Richmond's appeal the Bureau cited Enterprise City Schools, CC Docket 02-6, DA 12-369. This decision involved three schools and one library. Enterprise had been devastated by tornados and requested a 90 percent discount in subsequent years while rebuilding the town, Espiritu requested the Administrator consider an NSLP report that was released (did not exist) before the application was submitted. Plum Creek, the only library included in the Decision, was appealing an Administrator decision to reduce the discount rate from 80 to 68 percent "...due to a systematic error..." presumably with the library discount calculation Form 471 Block 4. Gallup simply asked that the Commission consider

funding Priority 2 applications at 85 percent or pro-rate funding at the 85 percent level for equipment. None of these appeals are germane to the Richmond situation.

Of the four cases, the Espiritu decision is the only possible link to Richmond. However, there is a crucial difference between the two – When requesting a discount increase the Richmond NSLP report was in existence and a representation of that report was available on the Schools application while the Richmond application was under review and during appeal. Espiritu on the other hand was requesting a discount increase based on an NSLP report that did not exist at the time of application submission. The Commission correctly concluded that discount rates cannot be increased based on reports published *after* the E-Rate application has been submitted. With Richmond, the report was published *before* the application was submitted and must be considered during review (emphasis added).

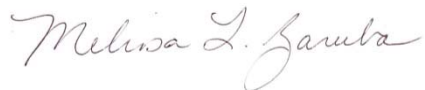
Finally, in accordance with CFR 47, Section 1.106(c)(2), it is most certainly in the public interest that libraries receive the appropriate E-Rate discount in the “Schools and *Libraries*” Program. Library discounts are derived solely from the public school district. Libraries have absolutely no mechanism to increase or alter the library discount rate. Generally, library discounts are calculated from school lunch numbers reported to state Departments of Education. However, schools may utilize alternative discount methods to calculate and increase E-Rate discounts. Alternative, federally approved, discount calculations are not reported to the state Department of Education and receive additional scrutiny during review. Schools rarely share alternative discount calculations with libraries and the Administrator does not have a mechanism to compare school discount calculations with associated library discounts. Libraries often receive lower E-Rate discounts than they should because of unreported and unrecognized alternative discount calculations.

Beyond approving this Petition for Reconsideration, in the public interest and fairness to all participants in the program, we ask the Commission to compel the Administrator to revise its review procedures concerning library discount calculation. We ask that Administrator review procedures include comparison with associated school applications and allow libraries to increase discount rates when discovered either by the reviewer or applicant, just as they are decreased when discrepancies are found. Libraries are at the mercy of school staff or E-Rate consultants to determine school lunch eligibility not reported on a State Valid File, used by the Administrator to verify discount rates.

Conclusion

Based on the arguments presented here, Richmond asks the Commission to overturn its decision and grant Richmond the 90 percent E-Rate discount it should receive in accordance with the Telecommunications Act of 1996.

Respectfully submitted this 22nd day of April, 2015,

A handwritten signature in cursive script, reading "Melissa L. Zaruba".

Melissa Zaruba
Consultant to Richmond Public Library

SNP Monthly Eligibility Report - (SNP023)

Virginia Department of Education, School Nutrition Program (SNPweb)

Purpose: Listing of FREE and REDUCED PRICE Lunch Program Eligibility Data between DEC-2013 and DEC-2013

Prepared: February 5, 2015

SNP Memb	PAID Elig	PAID	RED Elig	RED	FREE Elig	FREE	TOTAL F/R Elig	TOTAL F/R %
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Dec-13

123-Richmond City Public Schools

0020 - THOMAS JEFFERSON HIGH	889	415	46.68%	39	4.39%	435	48.93%	474	53.32%
0030 - ALBERT HILL MIDDLE	470	209	44.47%	18	3.83%	243	51.70%	261	55.53%
0050 - BINFORD MIDDLE	250	45	18.00%	13	5.20%	192	76.80%	205	82.00%
0090 - OPEN HIGH	189	132	69.84%	6	3.17%	51	26.98%	57	30.16%
0100 - BELLEVUE ELEM.	385	55	14.29%	25	6.49%	305	79.22%	330	85.71%
0130 - OVERBY-SHEPPARD ELEM.	445	33	7.42%	18	4.04%	394	88.54%	412	92.58%
0170 - BLACKWELL ELEM.	680	71	10.44%	22	3.24%	587	86.32%	609	89.56%
0200 - WILLIAM FOX ELEM.	575	455	79.13%	15	2.61%	105	18.26%	120	20.87%
0210 - SWANSBORO ELEM.	328	27	8.23%	24	7.32%	277	84.45%	301	91.77%
0230 - GINTER PARK ELEM.	625	53	8.48%	18	2.88%	554	88.64%	572	91.52%
0290 - GEORGE MASON ELEM.	444	21	4.73%	4	0.90%	419	94.37%	423	95.27%
0311 - GEORGE W. CARVER ELEM.	581	17	2.93%	10	1.72%	554	95.35%	564	97.07%
0330 - OAK GROVE/BELLEMEADE ELEM.	727	31	4.26%	18	2.48%	678	93.26%	696	95.74%
0390 - J.E.B. STUART ELEM.	423	57	13.48%	17	4.02%	349	82.51%	366	86.52%
0452 - RICHMOND COMMUNITY HIGH	220	114	51.82%	18	8.18%	88	40.00%	106	48.18%
0470 - HENDERSON MIDDLE	565	42	7.43%	30	5.31%	493	87.26%	523	92.57%
0480 - THOMAS C. BOUSHALL MIDDLE	542	47	8.67%	22	4.06%	473	87.27%	495	91.33%
0580 - MARY MUNFORD ELEM.	531	479	90.21%	5	0.94%	47	8.85%	52	9.79%
0600 - JOHN B. CARY ELEM.	308	81	26.30%	18	5.84%	209	67.86%	227	73.70%
0621 - FRANKLIN MILITARY ACADEMY	340	58	17.06%	28	8.24%	254	74.71%	282	82.94%
0650 - WOODVILLE ELEM.	524	15	2.86%	9	1.72%	500	95.42%	509	97.14%
0660 - WESTOVER HILLS ELEM.	402	50	12.44%	22	5.47%	330	82.09%	352	87.56%
0690 - MAYMONT PRE-K CENTER	214	107	50.00%	4	1.87%	103	48.13%	107	50.00%
0710 - FAIRFIELD COURT ELEM.	570	14	2.46%	3	0.53%	553	97.02%	556	97.54%
0730 - JOHN MARSHALL HIGH	775	104	13.42%	23	2.97%	648	83.61%	671	86.58%
0741 - GEORGE WYTHE HIGH	870	234	26.90%	34	3.91%	602	69.20%	636	73.10%
0750 - AMELIA STREET SP. ED.	54	11	20.37%	2	3.70%	41	75.93%	43	79.63%
0770 - MARTIN LUTHER KING JR. MIDDLE	659	41	6.22%	13	1.97%	605	91.81%	618	93.78%
0830 - CHIMBORAZO ELEM.	455	35	7.69%	16	3.52%	404	88.79%	420	92.31%
0850 - ARMSTRONG HIGH	951	211	22.19%	24	2.52%	716	75.29%	740	77.81%
1080 - ELKHARDT MIDDLE	426	77	18.08%	20	4.69%	329	77.23%	349	81.92%
1100 - BROAD ROCK ELEM.	733	82	11.19%	20	2.73%	631	86.08%	651	88.81%
1400 - ELIZABETH D. REDD ELEM.	479	52	10.86%	31	6.47%	396	82.67%	427	89.14%
1440 - E.S.H. GREENE ELEM.	477	36	7.55%	4	0.84%	437	91.61%	441	92.45%
1470 - G.H. REID ELEM.	688	98	14.24%	28	4.07%	562	81.69%	590	85.76%
1480 - SOUTHAMPTON ELEM.	492	131	26.63%	45	9.15%	316	64.23%	361	73.37%

1510 - HUGUENOT HIGH
 1630 - FRED D. THOMPSON MIDDLE
 1640 - J.B. FISHER ELEM.
 1710 - J.L. FRANCIS ELEM.
 3105 - LUCILLE M. BROWN MIDDLE
 3106 - LINWOOD HOLTON ELEM.
 3107 - MILES JONES ELEM.
 3110 - RICHMOND ALTERNATIVE

1,253	477	38.07%	61	4.87%	715	57.06%	776	61.93%
499	73	14.63%	33	6.61%	393	78.76%	426	85.37%
395	183	46.33%	26	6.58%	186	47.09%	212	53.67%
543	72	13.26%	24	4.42%	447	82.32%	471	86.74%
809	266	32.88%	55	6.80%	488	60.32%	543	67.12%
592	370	62.50%	21	3.55%	201	33.95%	222	37.50%
564	59	10.46%	26	4.61%	479	84.93%	505	89.54%
342	111	32.46%	5	1.46%	226	66.08%	231	67.54%

123-

**Richmond
City Public**

December / 2013 Totals	23,283	5,351	22.98%	917	3.94%	17,015	73.08%	17,932	77.02%
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Richmond Tech Center North 101, 69
 Richmond Tech Center South 832, 558